

ESTTA Tracking number: **ESTTA157157**Filing date: **08/16/2007**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Notice of Opposition**

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	JANSPORT APPAREL CORP.
Granted to Date of previous extension	08/25/2007
Address	3411 SILVERSIDE ROAD WILMINGTON, DE 19810 UNITED STATES

Attorney information	PAUL J. KENNEDY PEPPER HAMILTON LLP EIGHTEENTH AND ARCH STREETS 3000 TWO LOGAN SQUARE PHILADELPHIA, PA 19103-2799 UNITED STATES kennedyp@pepperlaw.com, kearneyc@pepperlaw.com, mulligar@pepperlaw.com, catalant@pepperlaw.com Phone:215/981-4194
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Applicant Information

Application No	76663093	Publication date	06/26/2007
Opposition Filing Date	08/16/2007	Opposition Period Ends	08/25/2007
Applicant	BIJOUX INTERNATIONAL, INC. 34 West 33rd Street, 6th Floor New York, NY 10001 UNITED STATES		

Goods/Services Affected by Opposition

Class 025. First Use: 2004/04/12 First Use In Commerce: 2004/04/12
All goods and services in the class are opposed, namely: Clothing, namely, shirts, shorts, pants, jackets, skirts and blouses; footwear; headwear

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2017368	Application Date	10/02/1995
Registration Date	11/19/1996	Foreign Priority Date	NONE
Word Mark	EASTPAK		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 018. First use: First Use: 1983/12/18 First Use In Commerce: 1983/12/18 all-purpose sporting bags, bicycle bags, soft luggage, luggage cases, backpacks, day packs, frame packs, knapsacks, bookbags, tote bags, duffel bags, garment bags, clothing bags, pullman cases and briefcases Class 025. First use: First Use: 1988/02/00 First Use In Commerce: 1988/02/00 men's, women's and children's clothing and footwear, namely, shirts, jackets, hats, gloves and pants

U.S. Registration No.	3124488	Application Date	06/03/2004
Registration Date	08/01/2006	Foreign Priority Date	NONE
Word Mark	EASTPAK		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 2000/12/00 First Use In Commerce: 2000/12/00 Retail store services in the field of apparel and outdoor gear and luggage; providing consumer product information via the Internet		

U.S. Application No.	78501852	Application Date	10/19/2004
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	EASTPAK U.S.A.		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: CD cases, camera cases, sunglasses and sunglass cases Class 018. First use: Backpacks, duffel bags, waist packs, fanny packs, luggage, organizer bags, wallets, and briefcases Class 025. First use: Shirts, T-shirts, hats and caps		

U.S. Registration No.	2168049	Application Date	03/15/1996
Registration Date	06/23/1998	Foreign Priority Date	NONE
Word Mark	EASTPAK		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 016. First use: First Use: 1977/06/01 First Use In Commerce: 1977/06/01 posters, paper banners, personal organizers, note books, paper binders, and pencil cases		

	Class 024. First use: First Use: 1977/06/01 First Use In Commerce: 1977/06/01 cloth banners
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U.S. Registration No.	2126764	Application Date	07/17/1996
Registration Date	01/06/1998	Foreign Priority Date	NONE
Word Mark	EASTPAK		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 016. First use: First Use: 1996/05/04 First Use In Commerce: 1996/05/04 stationery supplies, namely, pencil cases, loose leaf binders, loose leaf binder covers, notepad holders and stationery-type portfolios		

U.S. Registration No.	2226566	Application Date	10/21/1996
Registration Date	02/23/1999	Foreign Priority Date	NONE
Word Mark	EASTPAK		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 016. First use: First Use: 1997/01/00 First Use In Commerce: 1997/01/00 posters, paper banners, personal organizers, note books, paper binders, and pencil cases</p> <p>Class 018. First use: First Use: 1997/01/00 First Use In Commerce: 1997/01/00 all-purpose sporting bags, soft luggage, luggage cases, backpacks, day packs, frame packs, knapsacks, bookbags, tote bags, duffle bags, fanny packs, suitcases and briefcases, clothing bags and garment bags for travel</p> <p>Class 024. First use: First Use: 1997/01/00 First Use In Commerce: 1997/01/00 cloth banners</p>		

U.S. Registration No.	1524386	Application Date	04/20/1987
Registration Date	02/14/1989	Foreign Priority Date	NONE
Word Mark	EASTPAK		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 012. First use: First Use: 1983/12/18 First Use In Commerce: 1983/12/18 BICYCLE BAGS</p> <p>Class 016. First use: First Use: 1984/01/10 First Use In Commerce: 1984/01/10 BOOK BAGS</p> <p>Class 018. First use: First Use: 1984/01/10 First Use In Commerce: 1984/01/10 GARMENT BAGS FOR TRAVEL, PULLMAN CASES, BRIEF CASES AND LUGGAGE, BACK PACKS, DAY PACKS, FRAME PACKS, KNAPSACKS, TOTE BAGS, DUFFLE BAGS</p> <p>Class 028. First use: First Use: 1984/10/21 First Use In Commerce: 1984/10/21</p>		

	SKI PACKS FOR SKIS, SKI BOOTS AND OTHER SKI EQUIPMENT		
U.S. Registration No.	1096082	Application Date	09/16/1976
Registration Date	07/11/1978	Foreign Priority Date	NONE
Word Mark	JANSPORT		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1976/02/00 First Use In Commerce: 1976/02/00 CLOTHING-NAMELY, PARKAS, JACKETS, VESTS AND RAIN SLICKERS		
U.S. Registration No.	1089701	Application Date	09/16/1976
Registration Date	04/18/1978	Foreign Priority Date	NONE
Word Mark	JANSPORT		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 018. First use: First Use: 1973/01/01 First Use In Commerce: 1973/01/01 BACKPACKS, PACK FRAMES, PACK BAGS, RUCKSACKS, STUFF BAGS AND RELATED ACCESSORIES-NAMELY, STRAPS, PADS AND BELTS Class 022. First use: First Use: 1973/05/01 First Use In Commerce: 1973/05/01 SPORTING GOODS-NAMELY, TENTS Class 025. First use: First Use: 1976/02/01 First Use In Commerce: 1976/02/01 CLOTHING-NAMELY, PARKAS, JACKETS, VESTS AND RAIN SLICKERS		
U.S. Registration No.	1284423	Application Date	08/05/1983
Registration Date	07/03/1984	Foreign Priority Date	NONE
Word Mark	JANSPORT		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1976/02/01 First Use In Commerce: 1976/02/01 Shirts; T-Shirts; Jerseys; Tank Tops; Hooded Shirts; Pants; Slacks; Short Pants; Sports Jackets; Gymnastic Shorts, Pants and Shirts; Warm-Up Suits, Pants and Jackets; Sweat Shirts and Pants; Caps; Parkas, Vests, and Rain Slickers for Men, Women and Children		
U.S. Registration No.	1296406	Application Date	08/05/1983
Registration Date	09/18/1984	Foreign Priority Date	NONE
Word Mark	JANSPORT		
Design Mark			
Description of	NONE		

Mark	
Goods/Services	Class 025. First use: First Use: 1976/02/01 First Use In Commerce: 1976/02/01 Shirts; T-Shirts; Jerseys; Tank Tops; Hooded Shirts; Pants; Slacks; Short Pants; Sports Jackets; Gymnastic Shorts, Pants and Shirts; Warm-Up Suits, Pants and Jackets; Sweat Shirts and Pants; Caps; Parkas, Vests, and Rain Slickers - for Men, Women and Children

U.S. Registration No.	2229974	Application Date	04/16/1997
Registration Date	03/09/1999	Foreign Priority Date	NONE
Word Mark	JANSPORT		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 018. First use: First Use: 1985/01/00 First Use In Commerce: 1985/01/00 backpacks, rucksacks, duffle bags, fanny packs, brief cases, shoulder bags, frame backpacks, wallets, travel cases sold empty, day packs, soft-sided luggage, umbrellas, small soft-sided accessory bags to be attached to a back pack, soft-sided cases to hold tickets, passports or other travel-related documents, soft-side luggage in the nature of garment bags, straps, pads and belts for back packs and soft-sided luggage</p> <p>Class 025. First use: First Use: 1985/01/00 First Use In Commerce: 1985/01/00 jackets, T-shirts, sweatpants, sweatshorts, sweatshirts sweaters, vests, pants, shorts, shirts, hats, money belts</p>		

U.S. Registration No.	2997678	Application Date	07/01/2004
Registration Date	09/20/2005	Foreign Priority Date	NONE
Word Mark	JANSPORT		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 018. First use: First Use: 2004/01/01 First Use In Commerce: 2004/01/01 ALL PURPOSE SPORTING BAGS, ALL PURPOSE CARRYING BAGS, SOFT LUGGAGE, LUGGAGE CASES, BACKPACKS, DAYPACKS, FANNY PACKS, FRAME BACKPACKS, KNAPSACKS, BOOK BAGS FOR TRAVELING, TOTE BAGS, DUFFEL BAGS, HANDBAGS, GARMENT BAGS FOR TRAVELING, CLOTHING BAGS FOR TRAVELING, AND STRAPS FOR LUGGAGE AND STRAPS FOR HANDBAGS</p> <p>Class 025. First use: First Use: 2004/01/01 First Use In Commerce: 2004/01/01 Jeans, shirts, skirts, t-shirts, jerseys, tank tops, hooded shirts, pants, slacks, sports jackets, gymnastic shorts, gymnastic pants and gymnastic shirts; warm-up suits, warm-up pants and warm-up jackets; sweatshirts, sweatpants, caps, hats, parkas, coats, vests, wind-resistant jackets, boots, shoes and slippers</p>		

Attachments	78429237#TMSN.jpeg (1 page)(bytes) 78501852#TMSN.jpeg (1 page)(bytes) 75184618#TMSN.gif (1 page)(bytes) 73099988#TMSN.gif (1 page)(bytes)
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Signature	/Paul J. Kennedy/
Name	PAUL J. KENNEDY
Date	08/16/2007

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

JANSPORT APPAREL CORP.

Opposer

v.

BIJOUX INTERNATIONAL, INC.

Applicant

:
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: Opposition No.
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: Mark: EASTSPORT
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: Application Serial No. 76663093
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: Published in Official Gazette: June 26, 2007
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: Filed: July 14, 2006
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NOTICE OF OPPOSITION

United States Patent and Trademark Office
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Dear Sir/Madam:

JanSport Apparel Corp., a Delaware corporation with offices at 3411 Silverside Road, Wilmington, DE 19810 (“Opposer”) believes it will be damaged by the issuance of a trademark registration to Bijoux International, Inc. (“Applicant”), a New York corporation with offices at 34 West 33rd Street, 6th Floor, New York, New York 10001 for the mark EASTSPORT (Serial No. 76663093) in International Class 25, and hereby opposes the application.

As grounds for the opposition, Opposer alleges that:

1. Applicant is seeking to obtain, under the provisions of the Trademark Act of 1946, as amended, registration on the Principal Register of the mark EASTSPORT (“Applicant’s Mark”) for “clothing, namely, shirts, shorts, pants, jackets, skirts and blouses; footwear; headwear.”

2. Applicant is not now, and never was, entitled to registration on the Principal Register of the mark EASTSPORT, either on July 14, 2006, the date of Applicant's filing of the application, or on June 26, 2007, the date of publication in the Official Gazette.

3. Opposer is the owner of numerous trademarks for EASTPAK in several International Classes ("Opposer's Marks"), including in particular International Class 25, the class in which Applicant has made its filing. Opposer's Marks include:

- a. EASTPAK (Reg. No. 2017368) (1996) for "all-purpose sporting bags, bicycle bags, soft luggage, luggage cases, backpacks, day packs, frame packs, knapsacks, bookbags, tote bags, duffel bags, garment bags, clothing bags, pullman cases and briefcases" in International Class 18 and has used the mark since at least as early as December 18, 1983; and for "men's, women's and children's clothing and footwear, namely, shirts, jackets, hats, gloves and pants" in International Class 25 and has used the mark since at least as early as February 1, 1988.
- b. EASTPAK (Reg. No. 3124488) (2006) for "retail store services in the field of apparel and outdoor gear and luggage; providing consumer product information via the Internet" in International Class 35 and has used the mark since at least as early as December 1, 2000.
- c. EASTPAK & Design (Serial No. 78501852) (filed 10/19/04) (Allowed) for "CD cases, camera cases, sunglasses and sunglass cases" in International Class 9; for "backpacks, duffel bags, waist

packs, fanny packs, luggage, organizer bags, wallets, and briefcases” in International Class 18; and for “shirts, T-shirts, hats and caps” in International Class 25.

- d. EASTPAK (Reg. No. 2168049) (1998) for “posters, paper banners, personal organizers, note books, paper binders, and pencil cases” in International Class 16 and has used the mark since at least as early as June 1, 1977.
- e. EASTPAK (Reg. No. 2126764) (1998) for “stationery supplies, namely, pencil cases, loose leaf binders, loose leaf binder covers, notepad holders and stationery-type portfolios” in International Class 16 and has used the mark since at least as early as May 4, 1996.
- f. EASTPAK & Design (Reg. No. 2226566) (1999) for “posters, paper banners, personal organizers, note books, paper binders, and pencil cases” in International Class 16 and has used the mark since at least as early as January 1997; for “all-purpose sporting bags, soft luggage, luggage cases, backpacks, day packs, frame packs, knapsacks, bookbags, tote bags, duffle bags, fanny packs, suitcases and briefcases, clothing bags and garment bags for travel” in International Class 18 and has used the mark since at least as early as January 1997; and for “cloth banners” in International Class 24 and has used the mark since at least as early as January 1997.

- g. EASTPAK (Reg. No. 1524386) (1989) for “bicycle bags” in International Class 12 and has used the mark since at least as early as December 18, 1983; for “book bags” in International Class 16 and has used the mark since at least as early as January 10, 1984; for “garment bags for travel, pullman cases, brief cases and luggage, back packs, day packs, frame packs, knapsacks, tote bags, duffle bags” in International Class 18 and has used the mark since at least as early as January 10, 1984; and for “ski packs for skis, ski boots and other ski equipment” in International Class 28 and has used the mark since at least as early as October 21, 1984.

4. Opposer has, since long prior to the filing date of Applicant’s application, sold in commerce in the United States its products using Opposer’s Marks. Through usage by Opposer, Opposer’s Marks have become well-known to customers and potential customers as trademarks of Opposer, and as an origin and source of the goods sold and provided by Opposer.

5. Because of the nearly identical similarity between Opposer’s Marks and Applicant’s Mark and the fact that Applicant is offering for sale product in conjunction with its clothing, Applicant’s Mark is likely to cause confusion, mistake, or deception amongst the general and consuming public as to whether Applicant’s goods are being offered by, or in affiliation with, Opposer causing damage to Opposer.

6. Applicant’s registration and use of EASTSPORT also will dilute the distinctive quality of Opposer’s Marks, which became famous before the filing date of

Applicant's application, thereby lessening the ability of Opposer's Marks to distinguish Opposer's goods and causing damage to Opposer.

7. In addition, Opposer is the owner of numerous registrations for the mark JANSPOORT, in International Class 25. These marks include:

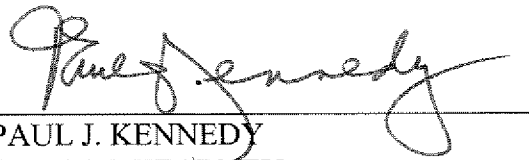
- a. JANSPOORT (Reg. No. 1096082) (1978) for "clothing-namely, parkas, jackets, vests, and rain slickers."
- b. JANSPOORT (Stylized) (Reg. No. 1089701) (1978) for "clothing namely, parkas, jackets, vests and rain slickers."
- c. JANSPOORT (Reg. No. 1284423) (1984) for "shirts, t-shirts, jerseys, tank tops, hooded shirts, pants, slacks, short pants, sports jackets, gymnastic shorts, pants and shirts, warm-up suits, pants and jackets, sweat shirts and pants, caps, parkas, vests, and rain slickers for men, women and children."
- d. JANSPOORT (Stylized) (Reg. No. 1296406) (1984) for "shirts, t-shirts, jerseys, tank tops, hooded shirts, pants, slacks, short pants, sports jackets, gymnastic shorts, pants and shirts, warm-up suits, pants and jackets, sweat shirts and pants, caps, parkas, vests, and rain slickers - for men, women and children."
- e. JANSPOORT (Stylized) (Reg. No. 2229974) (1999) for "jackets, t-shirts, sweatpants, sweatshorts, sweatshirts sweaters, vests, pants, shorts, shirts, hats, money belts."

- f. JANSPOUT (Reg. No. 2997678) (2005) for “jeans, shirts, skirts, t-shirts, jerseys, tank tops, hooded shirts, pants, slacks, sports jackets, gymnastic shorts, gymnastic pants and gymnastic shirts, warm-up suits, warm-up pants and warm-up jackets, sweatshirts, sweatpants, caps, hats, parkas, coats, vests, wind-resistant jackets, boots, shoes and slippers” in International Class 25

Applicant's Mark, therefore, incorporates an element of Opposer's mark JANSPOUT, namely, the element “sport” which further contributes to a likelihood of confusion.

8. Accordingly, Opposer requests that registration of the mark EASTSPORT (Serial No. 76663093) be denied to Applicant and this opposition be sustained.

PEPPER HAMILTON LLP



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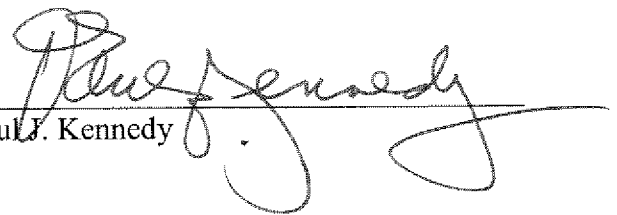
*Attorneys for Opposer
JanSport Apparel Corp.*

DATE: August 16, 2007

CERTIFICATE OF SERVICE

I, Paul J. Kennedy, hereby certify that on August 16, 2007, a true and correct copy of the foregoing Notice of Opposition was served via U.S. First Class Mail, postage prepaid, upon the following:

Myron Amer, Esquire
Myron Amer, P.C.
114 Old Country Road, Suite 310
Mineola, NY 11501-4410
Attorney for Applicant


Paul J. Kennedy